K.

MR 1815

194[illegible]. File No. S.O. 147

DEPARTMENT

BRANCH

Subject:— order of L.D.

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File No. 147

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V.VK. 11/5/1956-

4C.

11/5

K.S.R.
11/5

This is a typical case of how Government machinery is unable to realise the change that has taken place in the country. A man is a medical practitioner, he has nearly 30 years experience and is highly respected, commands good practice, offers his services honorary without any expectation of return to the country for one year. Any sensible Government would appreciate this, and assign some work to him. But here the General Department is unable to grant his petition and the Surgeon General tells him that he does not possess registrable qualifications. How is he allowed to practise them? Again he also styles this offer of Dr. Athalye as "a petition" All this must change. The Surgeon General ought to understand that a respected medical practitioner, who has been serving the country for 30 years, ought to be treated more politel The General Department must have more sense. I want all H.Ms. to see and this should be circulated to all the Secretaries to Government and the Heads of Departments so that they learn to deal more sensibly with members of the public. Someone offered to send money to the Bombay Government, and I was told that there was no head of account under which that money could be received. I had them to get the Accountant General to open a new head of account. Government must encourage all such offers and red tapism must change.

Id/- B.G.K(her)
22/1

All H.Ms.
All Secys. to Govt.
All Heads of Deptts.

No. 481/413

Political and Services Department,
Bombay Castle, 1st February 1947.

Copy forwarded to

All Honourable Ministers,
All Secretaries to Government,
All Heads of Departments

as desired by the Honourable the Prime Minister.

for Chief Secretary to the Government of Bombay,
Political and Services Department.

V.VK. 10/5/56/ 4C.

Legal Department.

OFFICE ORDER.

In numerous cases the High Court is finding fault in no uncertain terms with our drafting and decisions. In fact it would almost appear that in the opinion of the High Court, Legal Department has almost ceased to inspire respect. Naturally the Hon'ble the Prime Minister and other Hon'ble Ministers are having a legitimate cause of resentment against Legal Department's method of work, shall I say a thoroughly perfunctory method of work. I cannot see any justification at all for any deviation whatsoever from the language of the section, rule ect. while drawing up notifications etc. under the respective section ,rule etc. I am most anxious to see that out work should be so careful, and out checking so thorough, that all possible challenges to theaction of Government taken on the advice of the Legal Department should be defeated in Courts of law, I therefore direct that the following measures shall be adopted in office with immediate effect, and let it be noted that any slackness in following them would entail serious consequences :

(1) Every notification, order, etc. should be issued invariably in the strict, exact terms of the section of the Act, authorising the issue of such notification, order, etc.

(2) Before any such notification, order, rule etc.is put up beforethe R.L.A., the office must carefully examine the vires of the matter and state expressly in its note that the proposal is intra vires, Not only should theSuperintendent make such a note, but the Assistant Secretary or the P.A. concerned should also examine it, satisfy himself personally about it and specifically add in his

note that the vires has been examined , that the language has been compared with the section, rule etc. concerned and that the proposal is in-order.

(3) Where there is the least doubt felt about the competency of the Provincial Government to do a certain thing, the propo sal need not be mechanically accepted; but the difficulty if any in the position sh ould be fully explained, leaving it to Government in the Administrative Department to decide whether or not to take the risk of possibly losing the matter in a court of law.

Sd/- D.V.Vyas.
dt/- 29/1/47/

Bombay,)
29th January 1947.)

Secretary to Government, Legal Depa rtment,
and Remembrancer of Legal Affairs, Bombay.

V.V.R. 10/5/1956/ 4C.

Secretariat Instructions
Requirements of
Instruction 82.

GOVERNMENT OF BOMBAY,
Political and Services Department,
Circular No. 1306/34-B
Bombay Castle, 2nd July 1947.

Circular.

It has been brought to the notice of this Department that Instruction No.82 of the Secretariat Instructions is not being strictly followed in so far as consultation with the Finance Department is concerned. Cases are being marked direct for the Honourable Minister, Finance Department although they require previous consultation with the Finance Department and should be scrutinized by that Department in the normal way before submission to the Honourable Minister or should at least be submitted to him through the Secretary, Finance Department. All Personal Assistants etc to the Honourable Ministers and the Departments of the Secretariat are therefore requested to see that the requirements of Secretariat Instruction No.82 are strictly observed in future.

By order of the Governor of Bombay,

E.H.TAUNTON,

Chief Secretary to the Government of Bombay,
Political and Services Department.

To

All Departments of the Secretariat,

The Secretary to the Honourable the Prime Minister,

All Personal Assistants to the Honourable Ministers.

V.VK. 11/5/50/

4C.

Copy of a note from the Honourable the Prime minister dated the 8th May 1947.

I find that a number of cases of minor importance such as grant of leave or extension of leave even for short periods i.e. say two months to officers of the Provincial Services are submitted to me . Unless a question of principle is involved or the Honourable Minister concerned wished, it is not necessary that these cases should come up to me. They should be disposed of under the orders of the Honourable Minister concerned.

No.1306/34-B.
Political and Services Department,
Bombay Castle , 19th May 1947.

Forwarded to :-

All Departments of the Secretariat (except the Separate Department),
All Personal Assistants to the Honourable Ministers;

for information and guidance.

By order of the Governor of Bombay ,

Sd/- J. Chaves.

For Chief Secretary to the Government of Bombay,
Political and Services Department.

V.VK. 10/5/1956/

4C.

CONFIDENTIAL.

Visit.

Visits of the Honourable Ministers to District headquarters and other places.

GOVERNMENT OF BOMBAY.
Political and Services Department.
Circular No. 2799.
Bombay Castle, 17th June 1947.

CIRCULAR.

Complaints have been received to the effect that when an Honourable Minister goes on tour he usually sees only the officials and prominent Congress workers recommended by the local Congress organization, and that non-Congressmen, even if they desire to meet the Honourable Minister, cannot do so as they get no intimation either from the Collector or from the Congress authorities about the visit. This causes a great deal of heartburning amongst social workers and others. Government is, therefore, pleased to direct that when an Honourable Minister proposes to visit any city or town, the Collector concerned should notify the fact to all prominent residents of the place regardless of their political affiliations and ask them whether they wish to have an interview with the Honourable Minister. These orders do not apply to the City of Ahmedabad which is too large for such procedure to be adopted, or to Poona where Honourable Ministers' visits are too frequent to make it appropriate.

By order of the Governor of Bombay,

I.H.TAUNTON,
Chief Secretary to the Government of Bombay,
Political and Services Department.

To

All Collectors,
All Honourable Ministers,
The Secretary to the Governor,
The Commissioners of Divisions,
All Departments of the Secretariat.

for information.

R.I.No.209 Confl.
24/6/47.

V.VK. 11/5/1950
4C.

Instructions regarding reference of conduct cases to Political and Services Department.

Government of Bombay,
Political and Services Department,
Circular No. 1581/34.
Bombay Castle, 4th July 1947.

CIRCULAR.

The attention of the Secretariat Departments is invited to Items Nos. 3 and 11 in the list of Subjects allotted to the Political and Services Department in the Schedule to the Rules of Business. Item 3 pertains to the safeguarding of the rights and legitimate interests of all establishments while Item 11 pertains to appointments, conduct, leave etc. of officers of the All-India and Provincial Services. Thus Item 3 refers to questions affecting establishments as a whole while Item 11 refers to questions concerning individual members of the All-India and Provincial Services only. In a recent case concerning the conduct of a police Inspector, it was held that there was no necessity to show the case to the Political and Services Department or the Honourable the Prime Minister since it fell neither under Item 3 relating to establishments nor under Item 11 which, though relating to individuals, does not cover the subordinate services towhich the Inspector belonged. The Secretariat Department are therefore informed that cases affecting establishments as a whole should be referred to the Political and Services Department and the Honourable the Prime Minister under Item 3; but cases affecting individuals should be so referred only if the individuals are officers of the All-India or Provincial Services. Cases affecting individuals ~~xxxxx~~ as ~~xx~~ members of the subordinate services should be disposed of by the administrative department concerned.

By order of the Governor of Bombay,

I.H.TAUNTON,

Chief Secretary to the Government of Bombay,
Political and Services Department.

To

The Secretary to the Governor,

All Departments of the Secretariat.

V.VE. 11/6//56/

40.

Copy of Minutes recorded by Honourable Minister for Finance and Honourable Prime Minister.

I have come across a certain number of instances in which the orders of Government, which should normally be assumed to be final, on matters such as pay or pension of individual Government servants, have been sought to be re-opened at intervals by the individuals concerned.

I can understand Government re-opening and reviewing its decisions on matters of public policy.

I can also understand appeals against the decision of a subordinate authority on any matter whats ever, including a matter concerning the emoluments etc. of an individual Government servant.

But, in matters which are personal in the sense I have indicated, I doubt the wisdom of encouraging representations for reconsideration of decisions taken by the highest authority viz. Government.

I realise that no hard and fast rule can be laid down. and that the normal and authorised course of appeal should on no account be restricted , but, subject to these reservations, I think the tendency I have mentioned should be definitely discouraged.

If H.P.M. agrees with these views, they may be communicated to Departments for their guidance.

Id/-V.L.M(ehta).
dt/-3/4/1947/

H.P.M.

I agree.
Id/- B.G.K(her).
dt/- 14/4/

No.6684/33-B. Finance Department,
Bombay Castle, 22nd April 1947.

Circulated for information and guidance to-

All Department of the Secretariat (except Separatment Department).

By order of the Governor of Bombay,

Sd/-
Secretary to the Government of Bombay,
Finance Department.

V.VK. 11/5//88/

Copies of R.L.A.'s note and the minutes of the H.M. (L) & H - M.(H.D.) as the judgment recorded by the High Court in criminal Revision Application no. 50 of 1947 from Bijapur.

Legal Department.

Attention is inveted to he side-lined remarks of Chagla J. at page 15.

2. This provides an excellent instance of the consequences which follow if we allow ourselves to be guided by the opinion of the Government Pleader. I have always felt that it is not desirable to consult the G.P. in advance in such matters;- the law officers rules do not insist upon such consultation in cases coming from the mofussil. We put him in an awkward position from the point of view=pressing the case if we disagree with him and insist on an appeal or application in revision on grounds of public Policy. In consultation with L.D. the Department concerned should decide whether we should move the High Court ; and the G.P. may then be instructed to press the case on the lines of the note prepared by L.D.

3. H.M.(L) and H.M.(H.D.) may perhaps like to see.

Sd/-P.M.Lad.
dt/-2/9/1947/

SecyH.D.
I agree with the R.L.A.,

sd. 3/9/47

H.M.(L) It will be desirable to leave the responsibility with L.D. when necessary

H.M.(H.D. L.D. may consult G.P. but it should not be the rutine Procedure.

I agree sd/-M.H.D. 10/9/47 Sd/-D.N.Dasai,

Office to note, In each case attention should be drawn to the fact whether G.P. 's opinion is necessary.

V.VK. 11/5/56/ 4C. Sd/-P.M.L. dt/13/9/

Copy of R.L.A.'s orders dated 16.9.47.

In future all opinions (including the office copies) issued by the R.L.A.'s office will bear a marginal note corresponding to the head note of a G.R. The marginal Note will contain the following particulars.

(1) The short title of the subject matter of the opinion.

(2) The enactment to which the opinion principally relates.

(3) The enactments which are referred to in the opinion.

(4) R.L.A.'s previous opinions if any, are referred to in the opinion.

This system will facilitate filing and the preparation of an index by our office and help our office to trace references made by other Departments.

Sd/- P.N.LAD.
16/9/1947/

A.L.R.

Office should carry out these instructions.

Id/- R.T.K.
19/9

V.VK. 11/5//56/

No. 1262/46-A-II.
Political and Services Department.
Bombay Castle, 19th December 1947.

MEMORANDUM.

The undersigned presents compliments to the Accountant General , Bombay , and is directed to state that a post of Enquiry Officer for the Secretariat has been created for a period of two years in the first instance with effect from the 17th December 1947 and Mr.V.G. Deshmukh , an officiating Senior Assistant in the Revenue Department of the Secretariat, has been appointed to it. The post will be attached to the Political and Services Department but will not form part of the Upper Division establishment of that Department and will carry the scale pay of a Junior Superintendent in the Secretariat.

2. Sanction is also accorded to the appointment of a peon for the Enquiry Officer on Rs 23/- per mensem plus the temporary increase in pay and the house rent and dearness allowances as admissible. This appointment will be co-terminus with that of Enquiry Officer.

By order of the Governor of Bombay,

J.CHAVES,
For Chief Secretary to the Government of Bombay,
Political and Services Department.

Through the Finance Department.

Copy forwarded for information to--

The Finance Department,
All other Departments of the Secretariat,
The Private Secretary to His Excellency the Governor,
The Director of Publicity, Bombay,
The Secretary to the Honourable the Prime Minister,
The Personal Assistants to Honourable Ministers.

2. The Enquiry Officer will be a sort of Liaison Officer between the Ministers, the Departments and the public . The Departments of the Secretariat are requested to send to the Enquiry Officer copies of all orders of general importance issued by them. The Secretary to the Honourable the Prime Minister and Personal Assistants to Honourable Ministers are similarly requested to send to the Enquiry Officer copies of tour programmes, official engagements etc. of the Honourable Ministers.

3. The Director of Publicity is requested to be so good as to issue a Press Note drawing the attention of the public to the appointment of Enquiry Officer (office in Hut No.13 to the [illegible] north of the entrance to the Secretariat). The Director of Publicity is also requested to forward to the Enquiry Officer copies of all Press Notes issued by him from day to day and also summaries of press-leaders.

V.VK. 11/5/56/
4C.

Copy of a Memorandum from the Government of India, Ministry of External Affairs and Commonwealth Relations, No.D.8132 -PEA/47, dated the 6th December 1947.

A case has recently been brought to the notice of the Government of India in which an official of aProvincial Government addressed a foreign Government directly . Communications so addressed are not normally acted upon by the foreign Governments concerned and are made over by them to the appropriate Indian or British diplomatic authority. The proper channel of communication with foreign Governments is through the Government of India in the Ministry of External Affairs and Commonwealth Relations and the Indian diplomatic post in the country concerned or, where there is no Indian Representative, the British Representative.

2. It is requested that any question which may arise in the further for discussion with a foreign Government be referred to this Ministery for action through the appropria e channel.

No.2306/46-B.
Political and Services Department
Bombay Castle, 18th December 1947.

Forwarded with compliments for information and guidance to :-

The Private Secretary to the Governor,
The Prothonotary and Senior Master,
High Court , Bombay,
The Registrar, High Court, Appellate Side, Bombay,
All Heads of Departments under the several Departments of the Secretariat,
All Departments of the Secretariat.

By order of the Governor of Bombay,

Sd/-

For Chief Secretary to the Government of Bombay,
Political and Services Department .

V.VK. 11/5//56/

40.